



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Claude Isbell  
Secretary of State  
Austin, Texas

Dear Mr. Isbell:

Opinion No. 0-6612

Re: Time for publication of a  
resolution proposing an amend-  
ment to the Constitution.

We acknowledge receipt of your request for an opinion upon the above subject-matter, as follows:

"H.J.R. 13 has been passed to be voted upon at an election August 25, 1945. This resolution reached this office on Tuesday May 22 at 3:53 P. M., whereupon this office deposited in the mail on the evening of May 22 a copy of said resolution addressed to one newspaper in each of the counties of Texas, with the exception of some 16 counties that do not have newspapers.

"As you will observe Section 1 of Article 17 of the Constitution provides that all amendments must be published three months before the election and in this case May 25 was last date for starting publication of this amendment. Several newspapers have notified this office that said resolution #13 reached them too late for publication before the 25 and would like to know if they should start publication on June 1st.

"In view of the above situation I will be pleased to have you answer the following in order that I may be governed in the matter:

"(1) Should this office authorize the publication of H.J.R. 13 beginning in the issue of June 1st in view of the fact the first issue will not be three months before the election?

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"(2) Would we be authorized to pay for such publication beginning later than three months before the election?"

You are respectfully advised that it is the opinion of this Department both of your questions should be answered in the negative.

Section 1 of Article XVII of the Constitution, insofar as the same is pertinent, is as follows:

"\* \* \*, which proposed amendments shall be duly published once a week for four weeks, commencing at least three months before an election, the time of which shall be specified by the Legislature, in one weekly newspaper of each county, in which such a newspaper may be published, \*\*\*."

The requirement of the Constitution with respect to the time of such publication, is mandatory.

This Department in a thoroughly-considered opinion of date July 9, 1923, addressed to Honorable C. W. Payne, acting Secretary of State, written by Mr. L. C. Sutton, Assistant Attorney General, and approved by the late Judge W. A. Keeling, the then Attorney General, said:

"You are respectfully advised that it is the opinion of this Department that the beginning of publication of a proposed constitutional amendment at least three months prior to the date of the election is absolutely essential to the validity of the adoption of the amendment by reason of constitutional mandate. \* \* \*."

Many supporting authorities were cited in the opinion, and we need not to elaborate the point here.

Since the election is to be held on August 25, 1945, and since the three months of the Constitution must be complete "before" the election, it follows that May 24, 1945, was the last day upon which the publication could have begun. No publication begun later than that would meet the mandatory require-

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ment of the Constitution, and therefore would be legally ineffectual. In other words, such a belated publication is not one authorized or permitted by law, and therefore it would serve no lawful purpose, and of course would not authorize payment out of the treasury to the publisher.

We express no opinion, by implication or otherwise, as to the legal consequences of a failure of due publication (in part only of the counties) of this proposed amendment, confining our answer strictly to the questions put by you.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED MAY 29 1945

*George Sullivan* By  
ATTORNEY GENERAL OF TEXAS

*Ocie Speer*  
Ocie Speer  
Assistant

OS-MR

